

**Commonwealth of Kentucky  
Natural Resources and Environmental Protection Cabinet  
Department for Environmental Protection  
Division for Air Quality  
803 Schenkel Lane  
Frankfort, Kentucky 40601  
(502) 573-3382**

**STATE ORIGIN  
AIR QUALITY PERMIT**

**Permittee Name:** Pen Coal Corporation d.b.a. Levisa Fork Mining Company  
**Mailing Address:** P.O. Box 191, Dunlow, West Virginia 25515

**is authorized to operate a coal preparation plant**

**Source Name:** Bear Branch Coal Preparation Plant  
**Mailing Address:** Same as above  
**Source Location:** Bear Branch Road, Ulysses, Kentucky 41264

**KYEIS ID #:** 21-127-00038  
**SIC Code:** 1221

**Region:** Huntington - Ashland  
**County:** Lawrence

**Permit Number:** S-01-141  
**Log Number:** 53689  
**Permit Type:** Operating

**Issuance Date:** December 28, 2001  
**Expiration Date:** December 28, 2011

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**John S. Lyons, Director  
Division for Air Quality**

## **SECTION A - PERMIT AUTHORIZATION**

Pursuant to a duly submitted application, which was determined to be complete on December 18, 2001, the Kentucky Division for Air Quality hereby authorizes the operation of the equipment described herein in accordance with the terms and conditions of this permit. This permit has been issued under the provisions of Kentucky Revised Statutes Chapter 224 and regulations promulgated pursuant thereto.

The permittee shall not construct, reconstruct, or modify an affected facility without first having submitted a complete application and receiving a permit for the planned activity from the Division, except as provided in this permit or in Regulation 401 KAR 52:040, State-origin permits.

Issuance of this permit does not relieve the permittee from the responsibility of obtaining other permits, licenses, or approvals that may be required by the Cabinet or other federal, state, or local agency.

**SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS**

- 02    (-)            **Stockpile (Raw Coal)**
- (-)            **Stockpile (Clean Coal)**
- 03    (-)            **Haul Road and Yard Area (Unpaved)**

**Applicable Regulations :**

State Regulation 401 KAR 63:010, Fugitive emissions, applies to each of the affected facilities listed above.

**1.    Operating Limitations :**

N/A

**2.    Emission Limitations :**

The materials processed at each affected facility listed above shall be controlled with either wet suppression and/or enclosures so as to comply with the requirements specified in State Regulation 401 KAR 63:010, Fugitive emissions, Section 3. Standards for fugitive emissions.

**Compliance Demonstration Method:**

See Section C, General Condition F.2.

**3.    Testing Requirements:**

N/A

**4.    Monitoring Requirements:**

See Section C, General Condition F.1.

**5.    Record keeping Requirements:**

See Section C, General Conditions B.1., B.2., and F.1.

**6.    Reporting Requirements:**

See Section C, General Conditions C.1, C.2, C.3., and F.2.

**SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)**

- 01 (BC-1) Conveyor and Transfer Points (40' X 25')  
(ROM Belt - Peach Orchard Mine #1 to BC-2)**
- (BC-2) Conveyor and Transfer Points (40' x 300')  
(From BC-1 to Raw Coal Stockpile)**
- (BC-3) Conveyor and Transfer Points (36' x 180')  
(ROM Belt - Peach Orchard Mine #2 to Rock Storage Bin BS-1)**
- (BS-1) Storage Bin (Rock)**
- (-) Truck Loadout  
(From Rock Storage Bin BS-1)**
- (BC-4) Conveyor and Transfer Points (36' x 180')  
(From BC-3 to Raw Coal Stockpile)**
- (BC-5) Conveyor and Transfer Points (36' x 300')  
(From Raw Coal Stockpile to Preparation Plant)**
- (-) Coal Preparation Plant  
(Maximum Rated Capacity – 500 tons/hour)  
(Wet Process No Emissions)**
- (BC-6) Conveyor and Transfer Points (30' x 280')  
(From Coal Preparation Plant to Clean Coal Stockpile)  
(Wet Process No Emissions)**
- (-) Truck Loadout (From Clean Coal Stockpile)**
- (BC-7) Conveyor and Transfer Points (30' x 40')  
(From Coal Preparation Plant to Stoker Coal Storage Bin BS-2)  
(Wet Process No Emissions)**
- (BS-2) Storage Bin (Stoker Coal)**
- (-) Truck Loadout (From Stoker Coal Storage Bin BS-2)**
- (BC-8) Conveyor and Transfer Points (36' x 60')  
(From Coal Preparation Plant to Coarse Refuse Storage Bin BS-3)  
(Wet Process No Emissions)**
- (BS-3) Storage Bin (Coarse Refuse)**
- (-) Truck Loadout (From Coarse Refuse Storage Bin BS-3)**

**SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)**

**01 (BS-4) Storage Bin (Fine Refuse)**

**(-) Truck Loadout (From Fine Refuse Storage Bin BS-4)**

**Applicable Regulations :**

State Regulation 401 KAR 60:005, Standards of performance for new stationary sources, which incorporates by reference 40 CFR 60.250 (40 CFR 60, Subpart Y), applies to each of the affected facilities listed above.

**1. Operating Limitations :**

N/A

**2. Emission Limitations :**

Fugitive emissions from the eight conveyors and transfer points, emission points 01 (BC-1), 01 (BC-2), 01 (BC-3), 01 (BC-4), 01 (BC-5), 01 (BC-6), 01 (BC-7), and 01 (BC-8); the five truck loadouts, emission points 01 (-); the four storage bins, emission points 01 (BS-1), 01 (BS-2), 01 (BS-3), and 01 (BS-4); and the coal preparation plant, emission point 01(-) shall not exhibit greater than twenty percent (20%) opacity, each, as specified in State Regulation 401 KAR 60:005 (40 CFR 60.252(c)).

**Compliance Demonstration Method:**

In determining compliance with the opacity standards as listed above, the owner or operator shall use Method 9 and the procedures as described in 40 CFR 60.11 and 40 CFR 60.675(c).

**3. Testing Requirements :**

N/A

**4. Monitoring Requirements :**

See Section C, General Condition F.1.

**5. Recordkeeping Requirements :**

See Section C, General Conditions B.1., B.2., and F.1.

**6. Reporting Requirements :**

See Section C, General Conditions C.1., C.2., C.3., and F.2.

## SECTION C - GENERAL CONDITIONS

### A. Administrative Requirements

1. The permittee shall comply with all conditions of this permit. Noncompliance shall be a violation of Regulation 401 KAR 52:040, Section 3(1)(b) and is grounds for enforcement action including but not limited to the termination, revocation and reissuance, or revision of this permit.
2. This permit shall remain in effect for a fixed term of ten (10) years following the original date of issue. Permit expiration shall terminate the source's right to operate unless a timely and complete renewal application has been submitted to the Division at least six months prior to the expiration date of the permit. Upon a timely and complete submittal, the authorization to operate within the terms and conditions of this permit, including any permit shield, shall remain in effect beyond the expiration date, until the renewal permit is issued or denied by the Division. [401 KAR 52:040, Section 15]
3. Any condition or portion of this permit, which becomes suspended or is ruled invalid as a result of any legal or other action shall not invalidate any other portion or condition of this permit. [Material incorporated by reference by 401 KAR 52:040, Section 1a, 11]
4. Pursuant to materials incorporated by reference by 401 KAR 52:040, the permit contained herein may be revised, revoked, reopened, reissued, or terminated for cause. The filing of a request by the permittee for any permit revision, revocation, reissuance, or termination, or of a notification of a planned change or anticipated noncompliance shall not stay any permit condition. [Material incorporated by reference by 401 KAR 52:040, Section 1a, 4 and 5]
5. The permit does not convey property rights or exclusive privileges. [Material incorporated by reference by 401 KAR 52:040, Section 1a, 8].
6. Nothing in this permit shall alter or affect the liability of the permittee for any violation of applicable requirements prior to or at the time of permit issuance. [401 KAR 52:040 Section 11(3)]
7. The permit shall be subject to suspension at any time the permittee fails to pay all fees within 90 days after notification as specified in State Regulation 401 KAR 50:038, Air emissions fee. Source shall submit an annual emissions certification pursuant to 401 KAR 52:040, Section 20.
8. All previously issued permits to this source at this location are hereby null and void.

**SECTION C - GENERAL CONDITIONS (CONTINUED)****B. Recordkeeping Requirements**

1. Records of all required monitoring data and support information, including calibrations, maintenance records, and original strip chart recordings, and copies of all reports required by the Division for Air Quality, shall be retained by the permittee for a period of at least five years and shall be made available for inspection upon request by any duly authorized representative of the Division for Air Quality. [Material incorporated by reference by 401 KAR 52:040, Section 1b, IV. 2) and 401 KAR 52:040 Section 3(1)(f)]
2. The permittee shall perform compliance certification and recordkeeping sufficient to assure compliance with the terms and conditions of the permit. Documents, including reports, shall be certified by a responsible official pursuant to State Regulation 401 KAR 52:040, Section 21.

**C. Reporting Requirements**

1.
  - a. In accordance with the provisions of Regulation 401 KAR 50:055, Section 1 the owner or operator shall notify the Division for Air Quality's Ashland Regional Office concerning startups, shutdowns, or malfunctions as follows:
    1. When emissions during any planned shutdowns and ensuing startups will exceed the standards notification shall be made no later than three (3) days before the planned shutdown, or immediately following the decision to shut down, if the shutdown is due to events which could not have been foreseen three (3) days before the shutdown.
    2. When emissions due to malfunctions, unplanned shutdowns and ensuing startups are or may be in excess of the standards notification shall be made as promptly as possible by telephone (or other electronic media) and shall cause written notice upon request.
  - b. In accordance with the provisions of material incorporated by reference by 401 KAR 52:040, Section 1b, V. 3), the owner or operator shall promptly report deviations from permit requirements including those attributed to upset conditions (other than emission exceedances covered by Reporting Requirement condition 1 a) above), the probable cause of the deviation, and corrective or preventive measures taken; to the Division for Air Quality's Ashland Regional Office.
2. The permittee shall furnish information requested by the cabinet to determine if cause exists for modifying, revoking and reissuing, or terminating the permit; or compliance with the permit. [Material incorporated by reference by 401 KAR 52:040, Section 1a, 6].
3. Summary reports of any monitoring required by this permit shall be reported to the Division's Ashland Regional Office at least every six months during the life of this permit, unless otherwise stated in this permit. The reports are due within 30 days after the end of each six month reporting period. The initial issuance date of this permit establishes the beginning of the first reporting period. The permittee may shift to semi-annual reporting on a calendar year basis upon approval of the regional office. If calendar year reporting is approved, the semi-annual reports are due January 30<sup>th</sup> and July 30<sup>th</sup> of each year. All reports shall be certified by a responsible official pursuant to 401 KAR 52:040, section 21. All deviations from permit requirements shall be clearly identified in the reports.

## **SECTION C - GENERAL CONDITIONS (CONTINUED)**

### **D. Inspections**

1. In accordance with the requirements of 401 KAR 52:040, Section 3(1)(f) the permittee shall allow authorized representatives of the Cabinet to perform the following during reasonable times:
  - a. Enter upon the premises to inspect any facility, equipment (including air pollution control equipment), practice, or operation;
  - b. To access and copy any records required by the permit;
  - c. Inspect, at reasonable times, any facilities, equipment (including monitoring and pollution control equipment), practices, or operations required by the permit. Reasonable times are defined as during all hours of operation, during normal office hours; or during an emergency;
  - d. Sample or monitor, at reasonable times, substances or parameters to assure compliance with the permit or any applicable requirements.

Reasonable times are defined as during all hours of operation, during normal office hours; or during an emergency.

### **E. Emergencies/Enforcement Provisions**

1. The permittee shall not use as defense in an enforcement action, the contention that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance [Material incorporated by reference by 401 KAR 52:040, Section 1a, 3].
2. An emergency shall constitute an affirmative defense to an action brought for the noncompliance with the technology-based emission limitations if the permittee demonstrates through properly signed contemporaneous operating logs or relevant evidence that:
  - a. An emergency occurred and the permittee can identify the cause of the emergency;
  - b. The permitted facility was at the time being properly operated;
  - c. During an emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and
  - d. The permittee notified the Division as promptly as possible and submitted written notice of the emergency to the Division within two working days after the time when emission limitations were exceeded due to the emergency and included a description of the emergency, steps taken to mitigate emissions, and corrective actions taken.
3. Emergency provisions listed in General Condition E.2 are in addition to any emergency or upset provision contained in an applicable requirement.
4. In an enforcement proceeding, the permittee seeking to establish the occurrence of an emergency shall have the burden of proof.



**SECTION C - GENERAL CONDITIONS (CONTINUED)****F. Compliance**

1. Periodic testing or instrumental or non-instrumental monitoring, which may consist of record keeping, shall be performed to the extent necessary to yield reliable data for purposes of demonstration of continuing compliance with the conditions of this permit. For the purpose of demonstration of continuing compliance, the following guidelines shall be followed:
  - a. Pursuant to State Regulation 401 KAR 50:055, General compliance requirements, Section 2(5), all air pollution control equipment and all pollution control measures proposed by the application in response to which this permit is issued shall be in place, properly maintained, and in operation at any time an affected facility for which the equipment and measures are designed is operated, except as provided by State Regulation 401 KAR 50:055, Section 1.
  - b. All the air pollution control systems shall be maintained regularly in accordance with good engineering practices and the recommendations of the respective manufacturers. A log shall be kept of all routine and non-routine maintenance performed on each control device. Daily observations are required during daylight hours of all operations, control equipment, and any visible emissions to determine whether conditions appear to be either normal or abnormal. If the operations, controls, and/or emissions appear to be abnormal, the permittee must then comply with the requirements of Section C – General Conditions, paragraph C. 1.b., of this permit.
  - c. A log of the monthly production rates shall be kept available at the facility. Compliance with the emission limits may be demonstrated by computer program (spread sheets), calculations or performance tests as may be specified by the Division.
2. Pursuant to 401 KAR 52:040, Section 19, the permittee shall annually complete and return a Compliance Certification Form (DEP 7007CC) to the Division's Ashland Regional Office in accordance with the following requirements:
  - a. Identification of the term or condition;
  - b. Compliance status of each term or condition of the permit;
  - c. Whether compliance was continuous or intermittent;
  - d. The method used for determining the compliance status for the source, currently and over the reporting period; and
  - e. The certification shall be postmarked by January 30th of each year. Annual compliance certifications should be mailed to the following addresses:

|   |                          |
|---|--------------------------|
| Division for Air Quality                    | Division for Air Quality |
| Ashland Regional Office                     | Central Files            |
| P.O. Box 1507, 3700 13 <sup>th</sup> Street | 803 Schenkel Lane        |
| Ashland, KY 41105-1507                      | Frankfort, KY 40601      |
3. Permit Shield - A permit shield shall not protect the owner or operator from enforcement actions for violating an applicable requirement prior to or at the time of permit issuance. Compliance with the conditions of this permit shall be considered compliance with all applicable requirements for:
  - a. Applicable requirements included and specifically identified in the permit; or
  - b. Non-applicable requirements expressly identified in this permit.